**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**TESTAMENTARY AND INTESTATE JURISDICTION**

**NOTICE OF MOTION NO.80 OF 2006**
**IN**
**PETITION NO.676 OF 2002**

Mr.Sanjay Purushottam Patankar ...Petitioner

V/s.

Smt.Prajakta Pramod Patil ..Respondent

Shri.A.K. Saxena for the petitioner.
None for the respondent.

**CORAM : D.K. DESHMUKH, J.**
**DATED : 08/09/2006**

P.C.:-

1. Admittedly, testamentary petition No.546 of 2002 was filed by the respondent who is wife of the deceased, in which the Succession Certificate was granted by order dated 22nd June, 2006.

2. The present petitioner is brother of deceased. According to him, succession certificate granted in favour of widow is invalid because widow has remarried. The submission that after remarriage widow looses all rights to the property of the deceased-husband is based on provisions of Hindu Widow Remarriage Act. A perusal of the provisions of Section 4 of Hindu Succession Act, 1956, all laws in force inconsistent with any of the

provisions of Hindu Succession Act cease to operate. Hindu Succession Act declares widow to be heir of the deceased and there is no disqualification attached because of remarriage of the widow. Same view has been taken by learned single Judge of Orissa High Court in the case of **Harabati and Others V/s. Jasodhara Debi and others AIR 1977 Orissa 142** which was relied on by the petitioner himself. The notice of motion is disposed of.

3. It also appears from the record that petition No.676/2002 has already been disposed of.

**(D.K. DESHMUKH, J.)**